

March 29, 2004

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, Massachusetts 02110

Sent by e-mail, telefax and first class mail

RE: *Assignment of Interstate Pipeline Capacity*, D.T.E. 04-1

Dear Secretary Cottrell:

The Attorney General hereby replies to the initial comments of other parties and requests that the Department allow additional time to address any issues the parties raise regarding the Attorney General's initial comments. Other parties addressed whether the Department should continue to assign pipeline capacity as a mandatory slice of the system or should allow competitive suppliers to select specific capacity contract paths for their customers.

The natural gas local distribution companies ("LDCs") argue that mandatory, slice of the system capacity assignment should continue.¹ The LDCs cite as factors in support of their position the lack of competitiveness on upstream pipelines, cost shifting to non-migrating customers, need to maintain reliability, and the risk of having insufficient capacity to serve

¹ Fitchburg Gas and Electric Light Company recommends a modification to the slice of the system allocation that would be more flexible in assigning capacity and would produce a capacity allocation "that could actually be of some use to marketers." FG&E, p. 4. Although Blackstone Gas Company filed comments, they were limited to the data requested by the Department and revealed that the Company has no experience with serving competitively supplied customers.

returning customers. Bay State, pp. 30-33; Berkshire Gas, pp. 10-11; KeySpan, pp. 8-9; NStar Gas, pp. 15-16.

The competitive suppliers call for modifying the mandatory slice of the system protocol and favor a path approach or a voluntary system. Amerada Hess, p.23,² Energy East, p. 1,³ and National Energy Marketers Association. Energy East states that Rhode Island has a mandatory capacity assignment rule where competitive suppliers select, from an offering of several different capacity contract paths, their customers's share of the LDC's capacity. The supplier is assessed a charge or provided a credit based on the cost of the selected path and the average cost of capacity paid by the non-migrating customers. This assessment is designed to eliminate cost shifting and provide the supplier with a more workable capacity assignment.

Before accepting either the LDCs' or the suppliers' recommendations, the Department should expand this proceeding to fully develop a record on the costs and benefits of the positions advocated. In the alternative, the Department should reconvene the Massachusetts Gas Collaborative to address the concerns of all parties.

None of the LDCs' or the suppliers' comments address any solutions to the real cost and price uncertainties small customers must endure as Massachusetts moves to a fully competitive natural gas market. These customers should be given some real benefits to off-set the real costs

² Among other recommendations, Amerada Hess advocates that suppliers be allowed to "substitute capacity purchased by marketers and held by marketers for assigned capacity from LDCs." The substitution would be allowed only when reliability is maintained and it would not "involve subsidization from firm sales customers." Hess, p. 18.

³ Energy East's comments also raise a number of technical issues primarily related to how suppliers interact with the LDCs operationally--gas nominations, balancing and the determination of customers' temperature sensitive usage. The marketers' and LDCs' staffs should work out modifications to the LDCs' Terms and Conditions tariffs and file any necessary modifications with the Department for approval.

they have experienced (increased CGA costs as low load factor customers, and as the payers of last resort for excess, unmitigated capacity). The Department should address these issues in this proceeding by investigating gas supply procurement and pricing options for small customers.

In conclusion, the Department should allow the Attorney General additional time to address any issues the parties raise regarding his initial comments. The Department should expand this proceeding to fully develop a record on the costs and benefits of the positions advocated or reconvene the Massachusetts Gas Collaborative to address the concerns of all parties.

Sincerely,

Edward G. Bohlen
Assistant Attorney General